



STATE OF NEW JERSEY

In the Matters of Daniel Brennan,
Forensic Scientist 1, Law and Public
Safety (S0763V), Statewide

**FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION**

CSC Docket No. 2019-1352

List Removal Appeal

ISSUED: JUNE 14, 2019 (SLK)

Daniel Brennan appeals his removal from the eligible list for Forensic Scientist 1, Law and Public Safety (S0763V), Statewide on the basis that he possessed an unsatisfactory background report.

The appellant took the open competitive examination for Forensic Scientist 1, Law and Public Safety (S0763V), which had an October 6, 2017 closing date, achieved a passing score, and was ranked on the subsequent eligible list. In seeking his removal, the appointing authority indicated that the appellant had an unsatisfactory background report.

On appeal, while the appellant acknowledges that he had a motor vehicle related incident at the age of 25, which he indicates was 29 years ago, he asserts that his record is otherwise unblemished. He highlights that he has passed numerous other background checks.

In response, the appointing authority presents that a review of the appellant's Motor Vehicle Commission driver history indicates that he has committed 14 motor vehicle offenses and his driver's license has been suspended 10 times. It highlights that his most recent violation occurred on January 2, 2018. The appointing authority indicates that incumbents in the subject title are expected to use a State vehicle for transportation to and from court appearances and crime scenes to testify and process potential evidence. It also states that while the appellant acknowledged that he

committed a Driving While Intoxicated offense in 1989, he has not made any comments concerning extenuating circumstances for this offense or any other driving offense. The appointing authority asserts that incumbents in the subject title must have the highest level of integrity and credibility to withstand scrutiny when presenting scientific evidence in court. It indicates that the duties of the subject title are directly tied to law enforcement and public safety as the position requires the analysis of evidence submitted from law enforcement agencies and subsequent reporting based upon the results of the analysis conducted. Therefore, it asserts that the appellant's lack of candor in his failing to mention numerous other offenses in his driving record is concerning and may create credibility issues when testifying.

CONCLUSION

N.J.A.C. 4A:4-4.7(a)1, in conjunction with *N.J.A.C.* 4A:4-6.1(a)9, allows the Civil Service Commission (Commission) to remove an eligible's name from an eligible list for other sufficient reasons. Removal for other sufficient reasons includes, but is not limited to, a consideration that based on a candidate's background and recognizing the nature of the position at issue, a person should not be eligible for appointment.

N.J.A.C. 4A:4-6.3(b), in conjunction with *N.J.A.C.* 4A:4-4.7(d), provides that the appellant has the burden of proof to show by a preponderance of the evidence that an appointing authority's decision to remove his or her name from an eligible list was in error.

In this matter, the appointing authority argues that the appellant's driving record is adverse to the position sought as the appellant will need to use a State vehicle to travel to and from court and crime scenes. However, the appointing authority has not presented any evidence that the appellant does not have a current, valid driver's license. Further, even if it had, there is nothing preventing the appellant from making other arrangements for work-related travel. Additionally, the appointing authority asserts that the appellant's failure to mention his numerous motor vehicle infractions is troubling and argues that his lack of candor could lead to his integrity being questioned while testifying in court. However, as this subject title is not a law enforcement title, the appellant would not generally be required to provide background concerning his complete driving record on his application. Instead, on appeal, he acknowledged that he had a serious driving incident that took place many years ago and made a statement that his record was otherwise unblemished. This is the appellant's interpretation of his background and, without more, there is insufficient information to remove him from the list for this reason. Moreover, the Civil Service Commission is not persuaded regarding the appointing authority's argument regarding the appellant's potential credibility as a witness. Clearly, his prior driving record or perceived lack of candor in this matter is of no relevance to his credibility in testifying regarding any scientific evidence or findings

made by him in conjunction with his employment if he were to be appointed. However, it is clear that the appellant's background, including his driving record, can be used as a factor to bypass him under the Rule of Three on any future certifications.

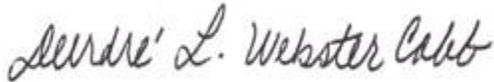
Accordingly, the appellant has met his burden of proof in this matter and the appointing authority has not shown sufficient cause for removing his name from the Forensic Scientist 1, Law and Public Safety (S0763V), Statewide eligible list.

ORDER

Therefore, it is ordered that this appeal be granted, and the appellant's name be restored to the Forensic Scientist 1, Law and Public Safety (S0763V) eligible list, for prospective employment opportunities only.

This is the final administrative determination in this matter. Any further review should be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 12th DAY OF JUNE, 2019



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